IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

And
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 12583 of 2004

Between:

Temura Bhoj Raj Yadav, S/o.Late T.Vardaraj Yadav,
police, R/o.H.No.1-5-535, 2nd floor,
Bakaram, Hyderabad.

..... PETITIONER

AND

1. The Govt. of A.P.rep.by Secretary, Home Dept. Secretariat, Saifabad, Hyderabad.
2 The Director & Inspector General of Police, A.P.,Hyderabad office of the Director General of police, Lakdikapul, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of mandamus setting aside the orders in in O.A.No.3504 of 2004 passed by the A.P. Administrative Tribunal, consequently direct the respondents to reinstate the petitioner into service forthwith with all attendant benefits like pay, allowances increments, seniority, promotion etc. from 2-8-2003.

Counsel for the Petitioner: MR.T.SUDHAKAR REDDY

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following:

(Oral order: Per: The Hon'ble Mr. Justice Goda Raghuram)

The petitioner, an Officer belonging to the rank of Deputy Superintendent of Police in the Andhra Pradesh Police Department, has filed the writ petition aggrieved by the order dated 09-07-2004 of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal') in O.A.No. 3504 of 2004 whereby the Tribunal declined to grant interim orders on the ground that as against the acquittal of the petitioner by the trial court in S.C.No. 430 of 2000, the State had filed a criminal appeal in this court. The petitioner had filed the O.A. assailing his continued suspension since October, 2000 and by way of interim relief, sought reinstatement into service.

The petitioner was initially placed under suspension, pending a criminal charge under investigation, in respect of allegations of abuse of official position and involvement in moral turpitude, by proceedings dated 06-10-2000. Thereafter, on 28-06-2002, the 2nd respondent reviewed the suspension of the petitioner and extended the same for a period of one year from 26-03-2001 to 26-09-2002 or till the disposal of the criminal case, whichever is earlier. It appears that in response to the charge memo, the petitioner submitted his explanation dated 05-04-2004. The departmental proceedings are pending.

The petitioner was acquitted in S.C.No. 430 of 2000 by the judgment dated 02-08-2003. He was, however, not reinstated to duty. It is not in dispute that the State preferred an appeal to this court against the petitioner's acquittal.

A counter affidavit has been filed on behalf of the respondents. It is asserted that the petitioner was involved in a case of Narcotic Drugs (Mandrax tablets) and a case was registered against him in Cr.No. 253 of 2000 under Sections 8 (C), 16, 21, 22, 25, 29, 44 and 45 of the Narcotic Drugs and Psychotropic Substances Act, 1985, of P.S. Boinpally, Secunderabad. He was arrested on 27-09-2000 and remanded to judicial custody. In view of his alleged involvement, petitioner was placed under

suspension on 06-10-2000, which was extended by the order dated 28-06-2002. After acquittal, a departmental inquiry was to be initiated against the petitioner. In a preliminary inquiry, the Special Intelligence Branch officials reported that they had never employed the petitioner as a Decoy to get information about drugs or narcotics. In the circumstances, disciplinary action was initiated by a Memo dated 26-03-2004 alleging his involvement in the narcotics affair. The counter affidavit further states that the applicant made representations dated 06-08-2003, 18-08-2003 and 19-08-2003 requesting release from suspension on the basis of his acquittal. The representations were examined in detail and an article of charge under Rule 20 of Andhra Pradesh Civil Service (Classification Control and Appeal) Rules, 1991 was issued. As the allegations against the petitioner are serious in nature, it is contended in the counter affidavit, he is being continued under suspension and orders have been issued in office proceedings dated 20-05-2004 extending the period of suspension upto 26-09-2004 or till the need ceases, whichever is earlier.

On behalf of the petitioner, it is alleged before us that the order of suspension had not been served on him and only a communication dated 05-08-2004 has been received by him from the office of the Inspector General of Police, Grey Hounds to the effect that the order of suspension is enclosed but without any such enclosure. We, therefore, called for the records. The learned Government Pleader has produced the records before us this day and we have perused the same.

As apparent from the records, the flow of events in brief and to the extent relevant to this writ petition, is as under:

By proceedings dated 20-05-2004 of the 2nd respondent herein, the petitioner's case was reviewed and an order issued to the effect that he should be continued under suspension upto 26-09-2004 or till the need ceases, whichever is earlier. As is apparent from the Outward Register of the 2nd respondent's office (dt. 21-05-2004 at serial No.16), the proceedings of the D.G.P. dated 20-05-2004 was dispatched to the Inspector General of Police, Grey Hounds, Hyderabad under whose administrative control the petitioner while working as an Assault Commander was placed under suspension and is continuing as such. Despite the fact that the order was dispatched to the Inspector General of Police, Grey Hounds on 21-05-2004, the I.G. Grey Hounds does not appear to have sensitized till 30-07-2004 as to the communication by the 2nd respondent, by his office. In the circumstances, when the

matter was brought to the notice of I.G. Grey Hounds, he made an endorsement directing an inquiry as to why it took two months for putting up the order of the 2nd respondent herein for his perusal. An inquiry is in process on this issue. After it was brought to his notice on 30-07-2004, the I.G., Grey Hounds, communicated proceedings in D.O.562/P3/04 to the petitioner on 05-08-2004 and was also received by the petitioner, as is apparent from his endorsement at 12-30 hours on 05-08-2004.

According to the petitioner what was communicated to him on 05-08-2004 is a proceeding of the I.G. Grey Hounds dated 30-07-2004 informing him that by the proceedings of the 2nd respondent dated 20-05-2004, it had been decided that he should be continued under suspension. The petitioner's complaint is that the order of the 2nd respondent dated 20-05-2004 was not however communicated to him and he was merely informed of such a decision taken by the 2nd respondent.

Whether for the period from 26-09-2002 (upto which date his initial suspension on 06-10-2000 was extended by the order of the 2nd respondent dated 28-06-2002) upto the date of the order of the current extension of suspension by the order of the 2nd respondent dated 20-05-2004, the petitioner is entitled to salary and allowances, as though he was not under suspension, on account of the failure of the respondents to have taken a decision to extend or continue his suspension, is a question that requires to be considered and adjudicated upon by the Tribunal in the O.A. This writ petition is confined to the singular issue as to whether the order of the Tribunal declining a direction to reinstate the petitioner into active service is justified.

As the petitioner has been informed by the proceedings of the I.G. Grey Hounds dated 30-07-2004, received by the petitioner on 05-08-2004, about the decision of the 2nd respondent herein that the petitioner should be continued under suspension upto 26-09-2004 or till the need ceases, whichever is earlier, the petitioner cannot for the present and during the subsistence of the order of the 2nd respondent dated 20-05-2004, claim reinstatement into active service.

On this analysis, we find no infirmity in the conclusion of the Tribunal rejecting grant of interim order in favour of the petitioner. The writ petition is without merits and is accordingly dismissed. No costs.

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J. CHELAMESWAR, J

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GODA RAGHURAM, J

Dt. 03-09-2004

Pvks/lSN

To

1. The Secretary, Home Dept., Govt. of A.P., Secretariat, Saifabad, Hyderabad.
2 The Director & Inspector General of Police, A.P.,Hyderabad, Office of the Director General of Police, Lakdikapul, Hyderabad.

3.2CCs to the Government Pleader for Services-I, A.P. High Court Buildings, Hyderabad (OPUC).

4.2CD copies

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